

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 4470 of 1997

to

FIRST APPEAL No 4481 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE Y.B.BHATT  
and

Hon'ble MR.JUSTICE C.K.BUCH

- =====
1. Whether Reporters of Local Papers may be allowed to see the judgements?
  2. To be referred to the Reporter or not?
  3. Whether Their Lordships wish to see the fair copy of the judgement?
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge?

-----  
STATE OF GUJARAT

Versus

DARJI CHHAGANBHAI BHIKHABHAI

-----  
Appearance:

MR SJ DAVE, AGP for Appellants

MR MS DESAI, for Respondents

-----  
CORAM : MR.JUSTICE Y.B.BHATT and  
MR.JUSTICE C.K.BUCH

Date of decision: 06/05/98

ORAL COMMON JUDGEMENT

Heard the ld. counsel for the respective parties at the admission stage. Appeals are admitted. Mr. MS Desai waives service of notice of appeal on behalf of

each of the respondents - original claimants.

2. On the joint request of the ld. counsel for the respective parties, these appeals are taken up for final hearing today.

3. These are appeals filed by the State of Gujarat under Sec.54 of the Land Acq. Act read with Sec.96 of the CP Code, challenging the judgment and awards passed by the Reference Court under Sec.18 of the said Act.

4. As a result of the hearing and discussion, as also as a result of joint submissions made by the ld. counsel for the respective parties, we find that these appeals shall be conveniently disposed of inasmuch as they are covered by two earlier decisions of this very Bench. For this reason, we do not propose to enter into a discussion on the factual aspect of the matter so far as the determination of the market value is concerned and/or for other incidental aspects of the matter.

5. The lands under acquisition in the instant group of appeals are situated in village Satalasana, Ta: Kheralu, Dist.: Mehsana, and were acquired for Dharoi Project. The relevant notification under Sec.4 of the said Act was published on 15.7.1971, and after undergoing the requisite procedural formalities, the Land Acq. Officer declared his award under Sec.11 of the said Act on 25.3.1976. The original claimants not having accepted the awards preferred applications for filing Reference under Sec.18 of the said Act, and the Reference Court, after recording evidence in a group of Land Ref. Cases, determined the market value in respect of the acquired lands at Rs. 50,000/ per Hectare, that is to say, Rs.500/ per Are.

6. Ld. counsel for the respective parties have jointly drawn our attention to our earlier decisions wherein we had dealt with the acquisition of lands and had determined the market value in respect of such lands, such lands considered in such decisions having been acquired for the very same project. Ld. counsel for the respective parties agree that two separate and distinct decisions of this very Bench would completely govern and cover the facts of the present case. The first of such decision is concerned with the acquisition of the lands situated in village Santoda which is very close to the instant village Satalasna being situated within a radius of approximately 8 to 10 kms. and the aforesaid both acquisitions were for the very same purpose. The market value in respect of the acquisition of lands in village

Santoda was determined by this Bench by its decision dated 2.4.1998 in First Appeal Nos. 4721/96 to 4737/96.

6.1 It is common ground on both sides that the general location, fertility, yield, agricultural output etc. of lands situated in these two proximate villages is more or less the same, and that therefore the market value determined by us in our aforesaid decision at Rs.258/ per Are would be equally valid in respect of the lands in the instant acquisition.

6.2 A similar joint submission was made by the ld. counsel for the respective parties in respect of another prior decision of this very Bench, in respect of acquisition of lands of village Gantodi. For the same reasons as stated herein above, the ld. counsel jointly submit that even this decision dated 13.4.1998 in First Appeal Nos. 4122/96 to 4286/96, would be equally applicable to the determination of the market value of the lands in the instant case.

7. Even in the said second decision, we had determined the market value at Rs 258/ per Are (On a uniform basis for all types of lands).

8. Thus on the facts and circumstances of the case and in view of the joint submissions made by the respective counsel, we hold and direct that the market value of the lands acquired in the instant case shall be Rs.258/ per Are, and that the respondents- original claimants shall be entitled to the compensation on the basis of such market value as also solatium at the rate of 30% on such market value.

9. However, the Reference Court has made an error in awarding further additional compensation under Sec.23(1-A) particularly since the amendment, wherein said provision was introduced by the Act 68 of 1984, whereas the Spl. Land Acq. Officer declared his award under Sec.11 as early as on 25.3.1976. Therefore the respondents- original claimants would not be entitled to the said additional compensation, and the award is to that extent also erroneous. We therefore hold and direct that the additional compensation under Sec.23(1-A) shall be disallowed.

10. No other contention has been raised by either side.

11. These appeals are partly allowed with no orders as to costs as directed herein above. Decree

accordingly.

12. The appellant State is directed to deposit with the Reference Court the requisite amount which may be payable to the original claimants under the present decree, separately in each Land Ref. Case, within a period of three months from the drawing of the decree.

0000000

\*rawal